



# **Business Plan 2011-12**

## Foreword

I am pleased to present my first Children's Commissioner's Business Plan. Following our review by Dr John Dunford this plan starts a new chapter for the Office of the Children's Commissioner (OCC). It is presented "in the spirit" of the review. We promote and seek to protect children's and young people's rights under the United Nations Convention on the Rights of the Child (UNCRC), the international treaty at the heart of our work. We present this plan under UNCRC clusters of Articles, informed by issues children and young people raise with us.

We are publishing this plan from our base in Victoria, London, a smaller space than our previous offices. We want to put our resources into realising children's rights, not running costs. We must also make significant savings, in common with many other organisations. Based here, although we promote and protect the rights of children and young people all over England, we are geographically well located to do so with central Government. We reflect their views to decision makers and wider society, always with a particular focus on the most vulnerable, who otherwise have too little say in vital decisions about their lives.

2010-11 was a busy and rewarding year. In each section of this plan we capture our successes. Later this summer we will lay before Parliament a 2010-11 Annual Report giving greater detail about what we have achieved. This plan, however, is about the future.

With the Department for Education and the Children's Rights Director, we will work to see John Dunford's recommendations come to fruition over the next two or three years. The time needed to engineer the necessary legislative change means this plan for 2011-12 remains vital.

We will press for a national focus on the voices, views and rights of children and young people to help ensure change for the better, so that when the new Office of the Children's Commissioner for England is launched, its foundations are solid and as a human rights organisation it can ensure lasting benefits.

My thanks for 2010-11 are due firstly to my Deputy Commissioner and OCC Chief Executive, Sue Berelowitz, and all the staff in my office. This excellent small team has worked closely and productively with me in a fulfilling first year. Thank you to *Amplify*, our children and young people's advisory group, an invaluable sounding board. I thank our partners across national and local government, academic, voluntary and community sectors. Consultation with many organisations and individuals during the creation of this plan was particularly welcome.

We work in public settings to influence others' thinking or by publishing evidence informed by the reported experiences of children and young people. However, much of what we achieve is done behind the scenes, through fruitful collaboration patiently undertaken over long periods in the interests of children and young people. Such activity, out of the public eye, is hugely valuable.

The positive effects of our work to date are considerable. They support our determination to deliver this plan. In it you will find solid evidence of how we work with, and speak and act on behalf of, England's children and young people. I believe that, as you read it, you will find echoes of your own aspirations for them.

A handwritten signature in black ink, reading 'ME Atkinson'.

**Maggie Atkinson**  
Children's Commissioner for England

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# 1. Introduction

## Background

- 1.1 Welcome to the Children's Commissioner for England's Business Plan for 2011-12. This is an ambitious plan for the coming year, setting out what we intend to achieve; the work we will carry out; and the way we will work with others.
- 1.2 This Business Plan follows an important year for us. A new Commissioner, Dr Maggie Atkinson, started in March 2010, and this document builds on the work she and the Office have undertaken during 2010-11, gathering the testimonies of children and young people and promoting their views on the key issues that affect their lives.
- 1.3 This year also saw the election of a new coalition Government, which commissioned Dr John Dunford to undertake an independent review of the Children's Commissioner and the Office that supports her statutory role. The Review took five months to complete and Dr Dunford reported to the Secretary of State at the end of November. We welcomed the review, and believe it provides a strong, clear model for our organisation to follow over the coming years.
- 1.4 Its results, in the form of new legislation and a new Office however, will take some years to realise. This plan therefore is written under our current work programme and remit. It sets out how we will use our allocation of public money from the Government, and sets out ambitious plans as we work with the Government and the Office of the Children's Rights Director (OCD) towards the future remit described in the Dunford Review.

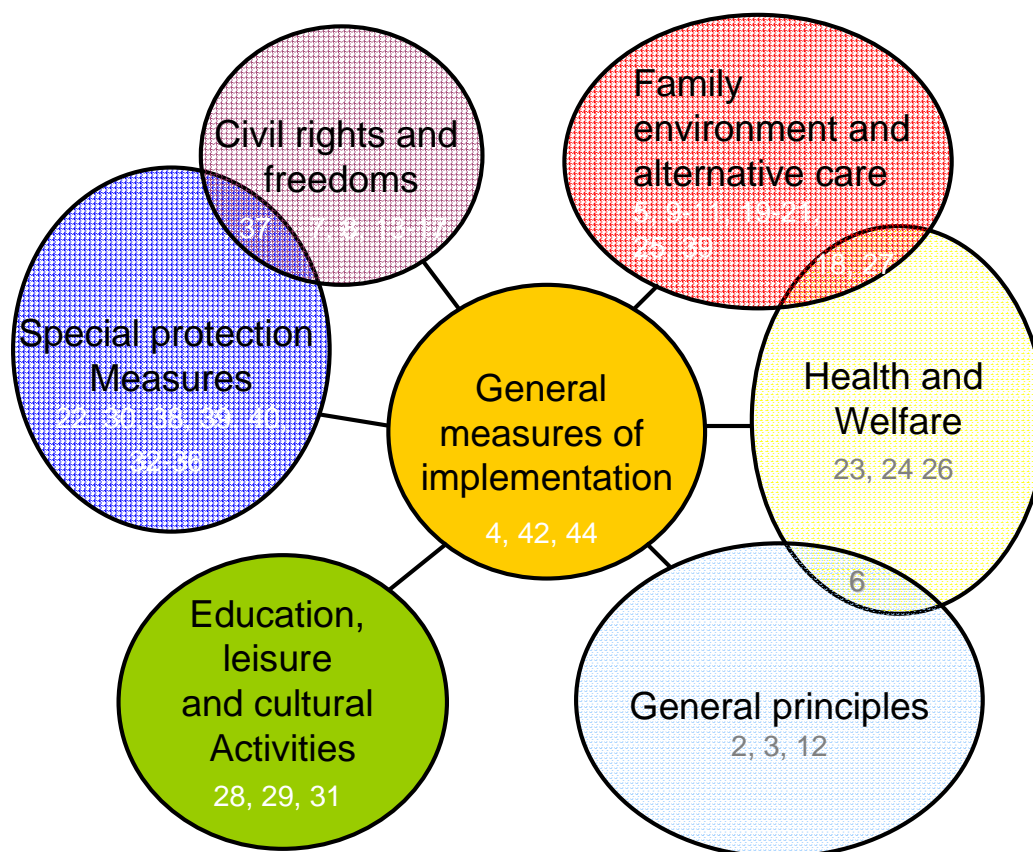
## Promoting and protecting children's rights

- 1.5 This year's Business Plan has been produced in the spirit of the recommendations made by Dr John Dunford in his *Review of the Office of the Children's Commissioner (England)*, the most significant one being that the role of the Children's Commissioner and her office should be "to promote and protect the rights of children as set out in the UNCRC." This business plan gives prominence to, and mirrors the Articles of the United Nations Convention on the Rights of the Child (UNCRC). The Convention, and particularly Article 12, listening to and taking seriously the views of the child, underpins and frames all our work.
- 1.6 The structure of the Business Plan reflects this, setting out our intentions using the clusters of Articles defined by the UN.<sup>1</sup> These groups of articles are used by State Parties to report on progress to the

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<sup>1</sup> The chapters that follow are organised in the 'clusters' defined by the United Nations Committee on the Rights of the Child and set out in *Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44* (2010). See page 6 for an illustration of these clusters.

UN every five years (the clusters are set out in figure 1, below, and Appendix 1). In setting out our plans in this way we are clearly relating all our work to specific UNCRC articles.



**Figure 1**

*The UN has defined clusters that group the articles within the Convention on the Rights of the Child (the articles grouped in each cluster are set out in more detail in Appendix 1).*

- 1.7 Readers will note that the summary of our projects set out below do not cover all the Convention's articles in detail. Nevertheless, the body of our work over the course of a year will cover the whole Convention while it remains necessary to focus our resources on addressing some more than others. The Articles we have chosen to address in greater detail are outlined at the beginning of each chapter. Our choice in highlighting these rather than others is directly influenced by the concerns of children and young people, and those who work to protect their interests.

## **Our Strategic aims**

- 1.8 As a result of the clear direction given by the Independent Review of the Office we have set three clear strategic aims for the organisation:
- To promote and protect the rights of children and young people as enshrined in the UNCRC;<sup>2</sup>
  - To be efficient, demonstrate good value for money, and deliver effective outcomes for children and young people;<sup>3</sup>
  - To be accountable, transparent and have robust governance arrangements in place.<sup>4</sup>
- 1.9 It is our intention to realise these strategic aims through the way we work, ensuring good use of the public money we receive, effective use of our powers, and continuing to improve across our organisation through measuring our performance in a meaningful and transparent way.
- 1.10 More specifically we will realise the promotion and protection of Children's Rights by:
- using our unique set of Inquiry powers as set out in the Part 1 of the Children Act 2004;
  - providing advice to relevant bodies and influencing their decision making and/or provision of services to children and young people;
  - reaching out and engaging policy makers and influencers, through our projects and programmes, so that they become better educated and informed about children's rights and the UNCRC;
  - providing value for money in spending the public resources that make up our budget.

## **How we will work**

- 1.11 As a small organisation we are unable to work on every issue that the UN Committee raised in relation to England in their concluding observations to the UK Government in 2008 and 2001. We have prioritised our work based on:
- concerns raised by the UN Committee on the Rights of the Child in their concluding observations in 2008;

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<sup>2</sup> This will be realised through the aims set out in paragraphs 2.1, 3.1, 4.1, 5.1, 6.1, 7.4, 7.16, and 7.26.

<sup>3</sup> This will be realised through the aims set out in paragraph 8.1.

<sup>4</sup> This will be realised through the governance structures set out in Appendix 4.

- the views and experiences of children and young people collected by the Office of the Children's Commissioner and others;
- evidence from academic research and children's services of where children's rights are not promoted and protected;
- the impact of previous work carried out by our Office, together with the capacity and expertise within the organisation.

1.12 To maximise our effectiveness and impact we will:

- always be guided by evidence. We will look to where the UNCRC articles are not being realised and to groups of children and young people who are denied their rights as defined by the Convention;
- use the significant body of work already carried out by the Office in recent years, and continue to work towards promoting and protecting children's rights;<sup>5</sup>
- work closely with all who share our vision to protect and improve the lives of all children and young people, through the realisation of the UNCRC.

1.13 Some of the other key Dunford recommendations reflected in this plan include close collaboration with the Children's Rights Director, in advance of legislation to secure the merging of the two organisations, and working within the spirit of Paris Principles compliance to ensure robust independence and accountability to Parliament.

1.14 It is also important that we maximise our impact and influence by working effectively with the different sectors and bodies that influence and impact the lives of children and young people. As an example of our transparency and aim to work in this spirit we shared a draft of this document with a wide range of partners and provided them with the opportunity to comment on plans. This process and its results are set out in Appendix 2.

## Value for money

1.15 Our ambitions for ensuring children can realise their rights under the UNCRC take place in the context of the tight fiscal environment facing the country. We have had a standstill budget of £3m since the establishment of a Children's Commissioner in 2005, resulting in a real terms decrease in our resource of 8.5%. In 2010/11 our budget was reduced by 5% to £2.85 million and from 2011/12 we are required to make approximately 30% cashable savings over four years.<sup>6</sup> At the

<sup>5</sup> Importantly this includes, but is not limited to, the evidence of the direct views and experience of children and young people who have been involved and engaged with the work of the Office of the Children's Commissioner.

<sup>6</sup> The ambitious plans set out in this Business Plan are premised on our expected allocation and resources available to the Office during 2011/12. Our commitment is to use the aims



end of the current public spending period this would equate to under 18 pence per child for England's 11.8 million 0-19 year olds. This would be one of the lowest per child amounts for comparable institutions in Europe.<sup>7</sup>

## **Using our powers to undertake Inquiries**

- 1.16 Since its establishment the Office of the Children's Commissioner has produced a significant body of work that includes primary research, examinations and detailed investigations into a wide range of matters that concern children and young people. We have not carried out a formal Inquiry using the powers afforded the Children's Commissioner under Part 1, Section 3 of the Children Act 2004.
- 1.17 In his independent review of the Office, Dr John Dunford noted this and encouraged the Children's Commissioner to consider how to make the most of her existing powers. We have considered his argument and propose to supplement the range of projects outlined in this plan with two formal Inquiries. These will look at:
- the degree to which public bodies are meeting their legal duties under equalities legislation with regard to school exclusions;
  - group-associated sexual exploitation/abuse of children and young people.
- 1.18 We will inform the Secretary of State that we will begin these inquiries during 2011 under the powers granted to the Children's Commissioner under Part 1, Section 3 of the Children Act 2004.
- 1.19 Over the opening months of our new Business Plan we will explore the different ways in which these Inquiries will be carried out and governed. We do expect the Inquiries both to trigger new research where there are identified gaps and needs, and to gather together existing knowledge and understanding from those already working in these areas. The Inquires will be led by the Children's Commissioner and the Deputy Children's Commissioner, and resourced within our existing allocation from the Department for Education.

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and projects set out in this plan as the basis of our work over the next two to three years while we transition to the new Office of the Children's Commissioner for England. This means that we will endeavour to begin all the work set out in this plan during 2011/12, but a number of projects may be delivered in subsequent years.

<sup>7</sup> Dr John Dunford set out a table comparing the costs of children's commissioners/ombudsmen in different European countries (*Review of the Office of the Children's Commissioner (England)*, DfE 2010 p. 53)

## How we will measure our performance

- 1.20 This year we specifically asked our partners, as part of our extensive consultation on our business plan, how they felt we should be judged in terms of our impact. We are grateful to UNICEF for directing our attention to a United Nation's report on measuring the effectiveness of National Human Rights Institution: [www.humansecuritygateway.com/documents/ICHRP\\_assessingeffectivenessNHRIs.pdf](http://www.humansecuritygateway.com/documents/ICHRP_assessingeffectivenessNHRIs.pdf). This has provided an international set of standards and reference point to our performance framework.
- 1.21 In line with the requirement for us to prove that we are continuing to provide value for money with public money we have supplemented the guidance from the UN with the model used by the Department for Education in setting out their business plan: [www.number10.gov.uk/wp-content/uploads/DFE-Business-Plan1.pdf](http://www.number10.gov.uk/wp-content/uploads/DFE-Business-Plan1.pdf). Taking both models we have developed a hybrid performance framework and report card.
- 1.22 In summary we have used the UN report to identify four core themes or elements to our work that form the basis of our performance framework. These are
- the use of our formal powers of Inquiry;
  - the work we undertake to advise and influence decision makers;
  - public outreach and engagement;
  - organisational efficiency and good governance.
- 1.23 Every quarter we will publically report back against these four themes in our Summary Report; and in October and May of each year we will publish our half-year and full-year performance from the Highlight Reports. All this information is set out in Appendix 3.

## 1.24 Summary of the Children's Commissioner Business Plan 2011-12

<b>UNCRC CLUSTERS</b>	<b>P/F REF</b>	<b>PROJECT TITLE AND DESCRIPTION</b> <i>(Cross-reference to paragraph numbers in italics)</i>
General measures of implementation	3.1.1	<b>Work on promoting the UNCRC</b> Strengthening our partnerships with children's rights organisations to complement and support the Government's role in promoting children's rights and the UNCRC across our areas of work. <i>(2.13-2.15)</i>
	2.1.1	<b>UK Commissioners UNCRC mid-term report</b> A joint project with other UK Children's Commissioners to consider the UK's progress on implementing a limited number of the CRC's articles in response to the UN Committee's concluding Observations. <i>(2.5-2.6)</i>
	2.1.2	<b>Developing an effective complaints system for children and young people</b> We will work with the Office of the Children's Rights Director to examine complaints systems available both to children living away from home and children more generally. We will seek to develop children and young people led proposals for where we find systems to be inadequate or ineffective. <i>(2.12 + 3.15)</i>
General principles	2.2.1	<b>Child Rights Impact Assessments</b> To establish a framework agreement with an external organisation who will support OCC in undertaking a minimum of 4 child rights impact assessments in 2011-12. <i>(3.10 – 3.13)</i>
	3.2.1	<b>Amplify: OCC's Children and Young People's Advisory Group</b> Will continue to invest in and support our children and young people's Advisory Group. <i>(3.0)</i>
	3.2.2	<b>Takeover Day</b> Co-ordinating OCC's national Takeover Day in November 2011. <i>(3.8)</i>

	3.2. 3	<b>Tackling negative perceptions of young people</b> We will be working with the other UK Children's Commissioners, Government and other partners to improve society's perceptions of young people
Family environment and alternative care	2.3. 1	<b>Children's access to protection: Recognition and Telling</b> Conduct research that will build our understanding of ways to work with young people in order to realise child protection strategies and ways of working that are more effective. (4.6 – 4.7)
	2.3. 2	<b>The impact of on parental substance misuse</b> We will complete our work (started in 2010) on adult and children's services working together so that children's needs are properly acknowledged. (4.8 a)
	2.3. 3	<b>Child protection systems in school settings</b> We will develop a new project that will look at good practice in schools, picking up on concerns about the role of schools in child protection and their ability to work with children's services. (4.8 c)
	2.3. 4	<b>Examine how older children's and young people's access to child protection services</b> This work will be guided by the outcomes of a cross-sector multi-agency roundtable event hosted by the OCC in January 2011. (4.8 b)
Basic health and welfare	2.4. 1	<b>Children and young people's experience of GPs</b> Further work on the impact of the White Paper on NHS reform (and consequent Bill) our project with UKYP on children and young people's experience and expectations of GPs. (5.6)
	2.4. 2	<b>Implementing the Child Poverty Strategy</b> A project investigating the likely impact of the child poverty strategy in reaching the 2020 targets and improving life chances from perspective of children and young people. (5.7)

Education, leisure and cultural activities	1.1.1	<b>OCC INQUIRY:</b> <b>Inequality in schools exclusions</b> Explore launching a formal Inquiry into whether public bodies (potential to focusing on schools) are meeting their legal duties under equalities legislation with regard to school exclusions and other aspects of their policy. (6.5 - 6.8)
	2.5.1	<b>School exclusions</b> Undertake research on provision for excluded children to scope the size of the issue – how many children are having their right to an education removed. (6.8 a)
	2.5.2	<b>Having a positive influence on teaching quality</b> We will publish a report into teaching quality (using existing evidence) and work with others in order to influence the entry requirements for teaching and the make-up of new skills tests for teachers, to ensure the involvement of children and young people. (6.10)
Special protection measures:  Child sexual exploitation	1.2.1	<b>OCC INQUIRY:</b> <b>Group and gang related sexual exploitation and abuse of children and young people</b> We will undertake an Inquiry using our formal powers that will examine what is already known about this subject, and seek to determine its scale and prevalence, the impact of sexual exploitation on victims and perpetrators, and evaluation of effective policy and service responses. (7.9 - 7.15)
	2.6.1	<b>Gang related sexual exploitation and abuse of children and young people</b> To undertake the full research recommended by the scoping exercise into the same areas carried out in 2010-11. This work will feed directly into the Inquiry into group related sexual exploitation and abuse. (7.14 – 7.15)
Special protection measures:  Youth justice	3.3.1	<b>Promoting and protecting children's rights in secure settings</b> Continue our programme of visits to secure settings, interviewing staff and engaging and involving children and young people to ensure children's rights are respected.

	2.6.2	<b>Developing an effective complaints system in the secure estate</b> To work with key partners to investigate the effectiveness of complaints systems and propose change where that is appropriate and necessary. (7.25)
	3.3.2	<b>Listening to excluded voices</b> To work with key partners, like User Voice, in order to ensure that the voice and experience of those in trouble of the law is heard in developing effective youth justice policy.
Special protection measures: Refugee children (including asylum and trafficking)	2.6.3	<b>Applying the best interest test to immigration returns of asylum seeking children and young people</b> To organise a sector wide roundtable/conference on the issue of returns – especially to Afghanistan. (7.35)
	2.6.4	<b>Monitoring the end of detention of children and families for immigration purposes</b> We will visit settings where children and families are accommodated or held for immigration purposes prior to removal from the UK. (7.34)
	2.6.5	<b>Seeking to improve the assessment of children's and young people's ages</b> We will continue to monitor policy and practice of age assessment and age disputed cases with the aim of improving the quality and consistency of decision-making. (7.37)

## 2. General measures of implementation

### Key Articles in this work area

**Article 4:** Protection of rights (implementation of rights in the Convention)

**Article 42:** Knowledge of rights (making the Convention widely known)

**Article 44:** Reporting obligations of the States Parties

### Our organisational aims

2.1 Throughout all our work our priorities are:

- to promote and protect the rights of all children across England;
- to identify and support children and young people from minority, marginalised and the most vulnerable groups to access and achieve their rights;
- to ensure the engagement and involvement of children and young people in influencing the decisions that affect their lives and *achieving* their rights.

### What the UN said about England in 2008

2.2 In addition to calling on the UK Government to incorporate the UNCRC fully into legislation, the Committee also noted several other issues concerning its general measures of implementation. These clearly show that it is the Government, as the state party which is ultimately responsible for implementing and making known the UNCRC in England, and that in doing so it has a duty to work with organisations like ourselves to realise this aim. This obligation is clearly set out in Article 44.

2.3 The Children's Commissioner has a special role as an independent monitor of the Government's progress on protecting and promoting children's and young people's rights, as enshrined in the UNCRC, and fundamentally ensuring their views and experiences are heard. Indeed, in its 2008 report the UN Committee called on the Government to ensure that the Commissioner's position and powers were consistent with the Paris Principles that underpin the position and status of independent national human rights institutions as set out in the UN Committee on the Rights of the Child's General Comment No. 2.<sup>8</sup> We are confident that following the Government's acceptance of the

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<sup>8</sup> UNCRC General Comment: The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child (2002)

recommendations of the independent review of our office in 2010, the UN's recommendations in this area will be met.

### **What we have already achieved**

In addition to promoting the UNCRC to a wide audience of children and young people across different media and forums, our work to date in this area includes:

- co-ordinated activity within the British and Irish Network of Ombudsmen and Childrens' Commissioners (BINOCC). This includes producing a joint report in 2008 from the four UK Children's Commissioners to the UN Committee. It was commended by the UN Committee on the Rights of the Child and had a direct impact on their concluding observations for the UK in 2008. This work also led to a Government Action Plan in 2009 that set out how it would realise the fulfilment of the UNCRC, matching plans in other jurisdictions;
- protecting children's and young people's rights through limited but strategic interventions in legal cases concerning the welfare of children within the immigration and youth justice systems. Our interventions have contributed to improved safeguards that defend children's welfare and promote better age assessments. As a result our advice and scrutiny are actively sought by Government on this delicate area of national policy as we engage formally by participating in expert working groups and informally through regular meetings with officials and ministers.
- successfully campaigning to see the UK's removal of reservations on the UNCRC in relation to children and young people in custody and the immigration system which led to these reservations being removed in 2008.

### **What we will be working on over the next year**

- 2.4 There are a number of ways in which the Office of the Children's Commissioner can promote Articles 4 and 42 of the UNCRC that are consistent with UN standards and the Committee on the Rights of the Child's concluding observations to the UK in 2008.<sup>9</sup> In many respects these Articles do not only apply to state parties but also reflect *how we work* across all our programmes. Nevertheless, we have also identified specific projects relating to Articles 4 and 42. These will mean that we will be able to support, challenge and on occasion hold the UK Government to account for its responsibility to children, young people and parents/carers.

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<sup>9</sup> See paragraph 2.2 and 2.3 above.



## **BINOCC and a UNCRC mid-term report**

- 2.5 Over the coming year we will continue to demonstrate our commitment to fulfilling our role as an independent monitor of children's rights across our jurisdiction. 2011-12 is the mid point in the UK's reporting cycle to the UN Committee on the Rights of the Child, with the state party's next periodic report due to be submitted in 2014. Now is the right time to assess progress since the last report in 2008. We will do this alongside colleagues in the other Children's Commissioner's offices across the UK to produce a mid-term report on five areas highlighted in the UN Committee's last set of concluding observations in 2008. This will be published in November 2011 and represents a commitment to realising our responsibility under Article 44 of the UNCRC.
- 2.6 In producing the mid-term report we will draw on the existing evidence base of children's and young people's views and experiences and use these to inform our conclusions and recommendations. We will use the process of writing the mid-term report to develop ways to engage and involve children and young people in the run-up to 2014. Capturing children's and young people's stories, views, experiences and expertise will be a part of our broader dialogue relating to Article 42.

## **Working with partners and the Children's Rights Director (CRD)**

- 2.7 The recommendations of the Dunford Review call on us to work more closely with partners across the voluntary, public and private sectors who work with or on behalf of children and young people. We already have strong alliances with a wide range of partners, and all our business priorities are supported by expert groups from the relevant sectors. We will further strengthen our partnerships so that our reach and impact are maximised to secure best outcomes for children.
- 2.8 These partnerships will include our continued work with the Equalities and Human Rights Commission and their age-related senior stakeholders group, with the different ombudsmen responsible for local government, health and prisons, and inspectorates working in the justice estate, immigration system and education. There are also a number of voluntary sector organisations we partner with, and in addition to those named elsewhere in this plan, we intend to support UNICEF in their work to promote children's rights through rights respecting schools and other projects.
- 2.9 We will increase our transparency and accountability by establishing an Interim Board to provide support, scrutiny, challenge and advice, beginning early in the financial year 2011-12. We will also continue to work with our now-established children's and young people's advisory group, 'Amplify'.

- 2.10 One of the key recommendations of the Dunford Review was to establish a new Office of the Children's Commissioner for England (OCCE), which merges the work of the current Children's Commissioner with the role of the Children's Rights Director (CRD). We will work more closely with the CRD and his team over the coming years, using the resources and expertise within both offices to develop joint projects where appropriate.
- 2.11 Where the two organisations' business plan priorities support working with partners, this is clearly signalled in the text. Our work with the OCRD particularly relates to Article 20 on children's right to be cared for and Article 12 recognising the right of children, including those in public care or educated away from home, to have their views heard and respected is fully complementary.
- 2.12 One early area of joint work will be to examine the complaints mechanisms and processes. We will work with the Office of the Children's Rights Director to examine the complaints systems available for children in care or residential education, and complaints systems available to children more generally. This will include mapping complaints systems available to children and young people, and engaging and involving them in recording their experiences and shaping proposals for future accessible systems for complaints, representations and advocacy.

### **Promoting knowledge of the UNCRC and children's rights**

- 2.13 The UN Committee is clear that the protection and dissemination of knowledge of children's rights are the responsibility of the State Party (Article 44 of UNCRC). Nevertheless, the Office of the Children's Commissioner, like many other organisations, has an important part to play in ensuring that the Government fulfils its obligations. Therefore, we will continue to make the UNCRC more widely known, informing and empowering children and young people, and educating the professionals who work with them, policy about them or provide services to them.
- 2.14 The Office of the Children's Commissioner has an important part to play in leading the promotion of children's rights, but we will not realise change on our own. While the State Party has specific responsibility for ensuring children and young people know about the UNCRC we will work with our partners to promote children's rights, especially those linked to our areas of work outlined in this plan. In order to do so we will seek to increase the number and quality of our partnerships across the different areas of our work and across the voluntary, statutory and private sectors.
- 2.15 This will include strengthening current partnership and collaboration with organisations like the UK Youth Parliament, UNICEF and Children's Rights Alliance for England (CRAE). We also plan to use the growing network of schools who have participated in the Children's

Commissioner's Takeover Day and our education policy work to engage and involve an even greater number of children and young people.

### 3. General principles and civil rights and freedoms

#### Key Articles in this work area:

**Article 2:** Non-discrimination

**Article 3:** Best interests of the child

**Article 6:** Child's right to life, maximum survival and development

**Article 12:** Respect for the views of the child

#### Our aim

- 3.1 To promote and protect the rights of children and young people as enshrined in the UNCRC. These rights are universal, inviolable and inalienable. They require that all children and young people are protected from discrimination, abuse and harm. They must have opportunity to grow and flourish, and have their best interests preserved and their views and opinions promoted and respected through the provision of engagement and involvement opportunities in all decisions that affect their lives.

#### What the UN said about England in 2008

- 3.2 One of the areas that concerned the UN Committee on the Rights of the Child in its 2008 report and concluding observations on England was the continuing discrimination faced by vulnerable groups of children. As a result it called on the Government to *“ensure full protection against discrimination on any grounds”* which would include making sure *“that cases of discrimination against children in all sectors of society are addressed effectively”*.
- 3.3 In addition the committee noted the inadequate consideration of the principle of the best interests of the child, and recommended *“that the state party take all appropriate measures to ensure that the principle of the best interests of the child, in accordance with article three of the Convention, is adequately integrated in all legislation and policies which have an impact on children, including in the area of criminal justice and immigration.”*

## **What we have already achieved**

### **3.4 Our policy work to date in this area includes:**

- influencing the content of the Equalities Act 2010 while it was passing through Parliament. Our work included a child rights impact assessment of the draft Bill that contributed to the strengthening of provisions relating to age and children and young people in particular;
- improving complaints systems for children and young people by using children's and young people's views and ideas to influence the reform of SEN and exclusions appeals in schools, and the handling of children's complaints in Yarl's Wood Immigration Removal and Detention Centre;
- bringing about a review of Government policy on media reporting in family courts following an Office of the Children's Commissioner report (with Oxford University) on the impact of opening up the family courts to the media. Our report clearly showed that children did not want reporters in court and the evidence directly challenged the Government's policy.

### **3.5 Children and young people inform and influence our work and we have engaged and actively involved children and young people to realise Article 12 of the UNCRC by:**

- establishing our own children's and young people's advisory group, 'Amplify', that plays an integral role in shaping and guiding our work, and advising on policy and Government thinking;
- working with individual and groups of children and young people with lived experience of the issues we have been investigating, to shape and inform our work;
- funding research on progress in establishing a culture of engagement and involvement across different areas of children's and young people's lives;
- raising the positive profile of children and young people by achieving a massive participation of 40,000 children and young people in the Children's Commissioner's Takeover Day 2010, across hundreds of organisations;
- directly speaking to – and on behalf of - key vulnerable groups identified by the UN Committee (e.g. traveller children, children experiencing homophobic bullying, and young carers).

## **What we will be working on over the next year**

- 3.6 The importance of the UNCRC's general principles comes from the way each Article is applied to every area of our work. Articles 2, 3, 6 and 12 form themes that we seek to embed in every chapter of this plan. For example, all of our work is driven by the aim that children's best interests should be at the heart of every decision that affects their lives. Therefore, a child's best interests is one of the principal standards by which we judge the quality of decisions taken in the immigration system, youth justice or care services and schools.
- 3.7 Similarly we continue to progress our work on Article 12 by seeking new creative and impactful ways of enabling children and young people to express their views, present their experiences and use their expertise to advise and influence future plans and work. This section describes some of the ways in which we will look to protect and promote children's and young people's rights.

## **The Children's Commissioner's Takeover Day 2011**

- 3.8 Children's and young people's invaluable contribution will once again be promoted through further expansion of the Children's Commissioner's Takeover Day. To be held on 11 November 2011, this is a key tool for advocating the importance of children's and young people's involvement in society in line with Article 12 of the UNCRC, and represents a major contribution to wider public perceptions of the role children and young people can play in decisions that affect their lives. It also demonstrates to the adults in their communities that children and young people want to, and can, play a range of constructive roles in society.

## **Challenging negative portrayal of children and young people**

- 3.9 Children and young people frequently ask us both to highlight their positive contributions to their communities, and to combat negative stereotypes about them in society and the media. In accordance with Article 12 of the UNCRC advocating the importance of children's involvement, voice and influence in society we will be working with the other UK Children's Commissioners, Government and other partners to improve society's perceptions of young people.

## Child rights impact assessments

- 3.10 As part of our role as independent monitor of children's rights we will continue and strengthen our commitment to undertaking child rights impact assessments on key policies affecting children and young people. This will ensure the impact on children and young people of emerging policies, laws or decisions can be predicted, monitored and, if necessary, avoided or mitigated.
- 3.11 The Office of the Children's Commissioner undertook such an impact assessment of the Equalities Bill in 2009. This proved influential and important in focusing our work, and the attention of policy makers. More recently our Parliamentary Briefing on the Health and Social Care Bill 2011 focused on the impact proposed legislation would have on children's rights. This work enabled us to bring Article 3 to the attention of parliamentarians and policy makers.
- 3.12 We will use the learning from this work to undertake a minimum of four child rights impact assessments of key Government policies, legislation, or decisions over the coming twelve months. We anticipate some of this work being undertaken in partnership with relevant agencies.<sup>10</sup>
- 3.13 Many of the children and young people we have worked with during 2010/11 have raised concerns about poverty, inequality and young people's economic and social opportunities. Therefore we will make sure that our impact assessments take account of **child poverty and inequalities** and explicitly reference Articles 6, 26 and 27.

## Tackling inequality and complaints mechanisms<sup>11</sup>

- 3.14 The legislation that established the Children's Commissioner states that her work should "*consider or research the operation of complaints procedures so far as relating to children*". In the past we have realised this responsibility by examining complaints procedures in different settings, including Yarl's Wood Immigration Removal Centre, schools and health services.
- 3.15 As outlined above (paragraph 2.7-2.10) this year we will work with the OCRD to research complaints procedures available to children in care.
- 3.16 We will also work with key partners, including Her Majesty's Inspectorate of Prisons (HMIP), to examine the effectiveness of complaints procedures in young people's secure settings. This work is

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<sup>10</sup> We will look to work with the expertise within CRAE, UNICEF and the National Children's Bureau (NCB), to develop our own capacity and capability to undertake child rights impact assessments.

<sup>11</sup> The Office of the Children's Commissioner is aware that the development of a third optional protocol to the UNCRC, and will over the course of the coming year continue to work with key partners like UNICEF to understand, interpret and implement any developments in this area.

in response to the findings from research funded by the Children's Commissioner during 2010 that sought the views and experiences of young people in custody.

### **Public Sector Equality Duty**

- 3.17 As well as ensuring that we work within the letter and spirit of the Equality Duty, we are also keen to examine and monitor the impact of the Public Sector Equality Duty and wider equalities legislation on public bodies, especially schools, as they relate to children and young people. This will be the subject of one of our Inquiries during 2011-12 and is outlined in more detail in chapter 6 below, and relates directly to Article 2 of the UN Convention.



## 4. Family environment and alternative care

### Key Articles for this work are:

**Article 19:** Protection from all forms of violence

**Article 25:** Review of treatment in care

**Article 39:** Rehabilitation of child victims

**Article 9:** Right to family life (separation from parents)

**Article 20:** Right to be properly cared for (children deprived of their family environment)

### Our aim

- 4.1 To promote and protect children's and young people's right to grow up in a safe, secure and positive environment, whether in their own family or in care. We will do this by seeking to extend the state's protection to those who often fail to be protected, especially:
- those who do not ask for help but are abused;
  - those children and young people we know are being abused but who fail to receive adequate protection. This group will include older young people, children whose parents take drugs or have alcohol problems, and those who present safeguarding concerns in schools.

### What the UN said about England in 2008

- 4.2 In 2008 the UN Committee on the Rights of the Child stated that it *"remain(ed) alarmed at the still high prevalence of violence, abuse and neglect against children, including in the home, and at the lack of a comprehensive nationwide strategy in this regard"* and recommended that the Government *"strengthen support for victims of violence, abuse, neglect and maltreatment in order to ensure that they are not victimized once again during legal proceedings;"* and *"provide access to adequate services for recovery, counselling and other forms of reintegration in all parts of the country"*.
- 4.3 As a result of these comments we will continue to prioritise its work on improving the child protection system and the safeguarding of children and young people.

## **Our achievements in 2010-11**

### **4.4 Our achievements in 2010-11 include:**

- promoting good practice and improving social workers' understanding of how to engage resistant families through undertaking and disseminating research on families' experiences of safeguarding services. This research is being disseminated to local authorities by the Centre for Excellence and Outcomes (C4EO);
- making local child protection policy and practice more accessible and child-friendly by using the lessons learned from research into children's and young people's views of child protection services (in partnership with the University of East Anglia);
- directly influencing Government reports, reviews and consultations that impact on family and social care policy. For example, we arranged for children and young people with personal experience of the child protection system to meet with the team leading the Munro Review. This evidence, together with additional evidence from other children and young people, was immensely powerful and has been included in Professor Munro's reports;
- securing a decision by the coalition Government to review the legislation on opening the family courts to the press. Our research into children's views on this matter, commissioned from Oxford University, has been significant in achieving this review. The change is critical in order to protect children's right to privacy under Article 16 of the UNCRC;
- producing a major study on parenting and family life, commissioned from Demos and launched by the Deputy Prime Minister. This research will contribute to the Government's families' taskforce.

### **What we will be working on over the next year**

- 4.5 Our work over the next year will focus on children's right to protection, to welfare and to engagement and involvement in key decisions (Articles 3, 12, 19, 24, 27). These rights are inter-related. Research funded by the Office of the Children's Commissioner demonstrates that more can be done to make services more accessible to children and young people so that it is easier to ask for help, and to ensure that children and young people realise their rights under Article 12 and are fully engaged and involved in the processes and decisions that affect them.

### **Children's access to protection: recognition and telling**

- 4.6 Our first priority in 2011/12 will be to extend the learning from our work in 2010/11 on children's experiences of the child protection process and the understanding we have gained concerning the strategies children and young people employ to cope with harmful experiences. Over the coming year we will embark on a two-year study, which will

entail engaging a wider group of children and young people and adult supporters in the consideration of the needs and protection of the wider population of children. This work is essential if England is to realise UNCRC Articles 3, 12, 19, and 34.

4.7 In 2011/12 we will:

- conduct research that will build our understanding of how children and young people seek help and in concert with young people, identify how professionals and others can increase their responsiveness. Specific outcomes will include: guidance for friends and for schools; training materials for social workers and other adult professionals;
- Explore the benefits of facilitating dialogue between them and relevant adults (e.g. police, GPs, social workers, teachers, etc.). We will also work on creative ways to engage children and young people.

**Identifying those who need protection but do not receive support**

4.8 Our second priority over the coming year will be to promote the better protection of those children and young people who are often not supported well by the state. In doing so we will focus on:

***a. Continuation of work on parental substance misuse***

We will complete our work (started in 2010) on improving cooperation between adults' and children's services so that children's needs are properly acknowledged and addressed. We will do this in partnership with the Children's Society and other key agencies. We will disseminate materials for adults working with children and conduct a research review of links to substance abuse by young people.

***b. Examine older children and young people's access to child protection and safeguarding services***

This work will be guided by the outcomes of a cross-sector multi-agency roundtable event hosted by the OCC in January 2011.

***c. Child protection systems in school settings***

We will begin to develop a new project on Child protection systems in school settings that will look at good practice in schools picking up on concerns about children; liaison with children's services; knowledge and support systems within school.

*Please see also chapter 7: special measures: group-associated sexual exploitation and abuse.*

## 5. Basic health and welfare

### Key Articles for this work are:

**Article 6:** Survival and development

**Article 24:** Health and health services

**Article 27:** Adequate standard of living

### Our aim

5.1 To promote and protect children's and young people's rights in health by:

- gathering evidence from children and young people to influence mental health and emotional wellbeing policy and practice in order to improve the quality and experience of care for vulnerable young people;
- tackling inequality in access to primary health services by drawing attention to the gap between children and young people's experience and expectations of care from general practitioners;
- protecting children's and young people's right to an adequate standard of living by promoting the views and experiences of those living in poverty and ensuring that the recommendations across all areas of our work support the realisation of Article 27 for every child and young person.

### What the UN said about England in 2008

5.2 The UN Committee's Concluding Observations to England in 2008 stated that it was concerned about *"inequalities in access to health services"* because, despite *"substantial investments, inequalities remain a problem"*.

5.3 The Committee expressed particular disquiet that *"despite the considerable financial investment in England... (and) while 1 in 10 children in the State Party have a diagnosable mental health problem, only around 25% of them have access to the required treatment and care"*. As a result it made an explicit recommendation regarding the need to improve children's and young people's mental health services – especially to *"those at greater risk, including children deprived of parental care, children affected by conflict, those living in poverty and those in conflict with the law."*

## **What we have already achieved**

5.4 Changing Government policy and guidelines on in-patient admissions for 16-18 year olds so that no under-16s are placed on adult mental health wards and those over 16 are only placed on adult wards if it is demonstrably in their best interests. This was achieved through the seminal research, undertaken jointly with YoungMinds on young people's experiences as in-patients.<sup>12</sup> This work continues to be quoted extensively and the standards have been adopted fully by the Royal College of Psychiatrists. Our mental health work remains extensive and includes:

- scrutinising the implementation of the Government's National CAMHS Review through membership of the National Advisory Council for children's mental health and emotional wellbeing (NAC);
- membership of the National Advisory Group (NAG) on the Mental Health of Offenders with a particular brief for the emotional wellbeing and mental health of children and young people in the criminal justice system;
- an examination of mental health needs and services for children in custody. (See chapter 7).

5.5 Other work we have undertaken in order to promote and protect children's right to Articles 6, 24, and 27 include:

- partnering the UK Youth Parliament to collect children's and young people's experience and expectations of GPs in order to inform and influence parliamentarians' understanding of the likely impact of health reforms proposed in the current Health and Social Care Bill (2011);
- significantly influencing the Coalition Government's first child poverty strategy as the primary conduit through which the Child Poverty Unit has engaged with children and young people on their experiences of living in deprived areas. This work, undertaken in partnership with the National Foundation for Educational Research (NFER), is our commitment to ensuring that Article 12 is realised in the discussion concerning child poverty.

## **What we will be working on over the next year**

### ***Children and young people's experience of General Practitioners***

5.6 Following the publication of the Marmot Report, Sir Ian Kennedy's Review of NHS services for children, and the publication of the Health Service White Paper that placed GPs at the heart of the NHS via their

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<sup>12</sup> *Pushed into the shadows: young people's experience of adult mental health facilities and Out of the Shadows*, (Office of the Children's Commissioner, 2008).

new commissioning role the issue of General Practitioners will remain at the forefront of our work on health and Articles 6, 24 and 27. This will include carrying forward our work with children and young people on their experience of GPs and assessing the impact of proposed health reforms. In doing this we will look at the opportunities to communicate and inform GPs' practice and understanding of the UNCRC and children's and young people's expectations and needs.

### ***Child poverty***

- 5.7 We will further develop the outcomes from our research into children's and young people's views and experience of poverty. We are especially interested in exploring the experience and views of groups who are particularly vulnerable, and using this to work to influence policy and identify effective interventions. This will relate our work directly to a close scrutiny of Article 27 and its fulfilment.
- 5.8 Our commitment to undertake child rights impact assessments will explicitly reference Article 27 and the effect policy and legislation would have on children and young people's standard of living. In addition we will convene a roundtable for organisations working with children in or at risk of poverty to assess the impact of spending restrictions and the reductions to funding in both the voluntary and statutory sectors. Our aim is to ensure child centred evidence based research influences policy and practice.

*Please see also chapter 7, Special measures: juvenile justice.*

## 6. Education, leisure and cultural activities

### Key articles for this work are:

**Article 28:** Right to education

**Article 29:** Goals of education (aims of education)

**Article 31:** Right to cultural, artistic and leisure activities, and play

### Our aim

- 6.1 To promote and protect children's and young people's rights in education and to bring their views to key decision makers by:
- launching an Inquiry into the degree to which public bodies are meeting their legal duties under equalities legislation with regard to school exclusions under Part 1, Section 3 of the Children Act 2004;
  - working to ensure transparency and fairness in the exclusions process (including policy and practice), and to investigate gender and ethnic inequalities in the exclusions system;
  - improving the quality of teaching by feeding the views and experience of children and young people into programmes of professional development based on learning and best practice;
  - highlighting the inequalities faced by children and young people with SEN, and ensuring they have a voice in how they are educated.

### What the UN said about England in 2008

- 6.2 In the UN's Concluding Observations to England in 2008 the Committee on the Rights of the Child highlighted a number of issues concerning the realisation of Articles 28 and 29 that included:
- *"participation of children in all aspects of schooling is inadequate, since children have very few consultation rights, in particular they have no right to appeal their exclusion or to appeal the decisions of a special educational needs tribunal;*
  - *"the right to complain regarding educational provisions is restricted to parents, which represent a problem especially for looked after children for whom local authorities have, though mostly do not use, parental authority;*



- *“bullying is a serious and widespread problem, which may hinder children’s attendance of school and their successful learning;*
- *“the number of permanent and temporary schools exclusions is still high and affects in particular children from groups which in general are low on school achievement.”*

### **What we have already achieved**

6.3 Our work to date in this area includes:

- promoting awareness of bullying and its impact on children and young people, through publishing a report on their experiences and partnering with the Anti-Bullying Alliance;
- ensuring children’s and young people’s voices are heard within education debates by collecting strong and robust evidence on their views of the education system. Our research with NFER collected the views of almost 2000 young people in 2010-11, which helped inform and influence a number of Government and Parliamentary enquiries on education policy, including the consultation on the introduction of a pupil premium; and the Education Select Committee’s Inquiry into behaviour and discipline in the classroom;
- realised new ways of bringing children’s and young people’s views and experiences to the attention of policy makers. For example, our work on discipline, behaviour and the classroom experience included *The classroom of today: seat of learning or educational warzone?* This publication included young people’s commentary and response to articles written by a number of well known commentators and practitioners;
- influencing policy on exclusions and SEN statementing by publishing children’s views of the system and their ability to participate in decision making.

### **What we will be working on over the next year**

6.4 In the 2008 Concluding Observations relating to education the UN Committee was clear in its desire to see greater participation take place within English schools. We will therefore continue to promote the importance of children’s and young people’s engagement and involvement in the development, monitoring and evaluation of education policy, both within individual schools and at the national level. This approach will be at the heart of all our work in this area.

### **School exclusions**

6.5 In 2011/12 we will launch a formal Inquiry into whether public bodies are meeting their legal duties under equality legislation with regard to school exclusions. This Inquiry will be conducted under the powers

granted to the Children's Commissioner under Part 1 Section 3 of the Children Act 2004. It will examine whether children and young people rights are being met, specifically Article 28, 3 and 12.

- 6.6 Our decision to seek to undertake an Inquiry in this area is based on concerns including evidence from our own research with almost 2,000 young people regarding the profile of children and young people excluded, and the potential for inconsistency in the provision of alternative arrangements that ensure they continue to receive an education.
- 6.7 Research by the NFER for the Office of the Children's Commissioner (2011) has also suggested that children are not always routinely given an opportunity to speak for themselves in this area, with decisions about exclusions and alternative provision being made for them leaving them no opportunity to appeal these decisions on their own behalf (Article 12).<sup>13</sup> We are concerned that proposals in the current Education Bill may further undermine these rights, and as a result we will examine these issues in more details during 2011.<sup>14</sup>
- 6.8 In order to support our Inquiry into whether public bodies are meeting their legal duties under equalities legislation with regard to school exclusions we will:
- commission research on provision for excluded children to discover the size of the issue –
    - How many children are having their right to an education removed and why?
    - What do children and young people have to say about this issue?
    - What do adult stakeholders have to offer to the Inquiry?
    - What is the quality of alternative provision and what does success in its operation look like?
    - What lessons can be disseminated to the system as a whole?
  - publish an interim "issues" report on the system for excluded children, drawing on this research;

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<sup>13</sup> Children's participation in decision-making: a summary report on progress made up to 2010 (National Participation Forum, 2010) available on the Office of the Children's Commissioner's website at:

[http://www.childrenscommissioner.gov.uk/content/publications/content\\_412](http://www.childrenscommissioner.gov.uk/content/publications/content_412)

<sup>14</sup> We note provision in clause 51 (Part 6) of the Education Bill to establish Alternative Provision Academy and commitments made in the Government's White Paper, *The Importance of Teaching*, (paragraphs 3.37 to 3.41) of plans for a new approach to alternative provision for excluded pupils. We will take their development and implementation into account as we undertake our work.

- conduct a child rights impact assessment on Part 2 of the 2011 Education Bill;
- produce a full report of the Inquiry's findings by the end of the 2011/12 financial year.

### **Teaching quality**

6.9 We will continue to work in 2010/11 to support the improvement of teaching quality in England through seeking a positive and legitimate role for children and young people to inform policy and practice, both in their own schools and at the level of national policy. Our spring 2011 report commissioned from the NFER and reporting on the views of approximately 2,000 children and young people, demonstrated that good schools, high-quality teachers and the opportunity to secure high achievement are important priorities for children and young people. Under Article 12 of the UNCRC, children's and young people's views should be listened to and taken seriously, but our research and discussions with education and teaching partners suggests that this does not often happen consistently. There is therefore a strong case for us to do work in this area to protect children and young people's rights and to ensure that they have their voice heard in the current live debate on teacher standards.

6.10 Therefore in 2011/12 we will:

- use the evidence base developed through the NFER research to influence the ongoing debate, drawing on other sources of evidence (e.g. Ofsted annual report). We will look to use this evidence to publishing a Commissioner's report into teaching quality;
- use our expertise to work with organisations including TDA, National College and DfE to involve children and young people in the development of new entry requirements for teaching, the review of the QTS standards and the Teachers' Code of Conduct, and the make-up of new skills tests for teachers;
- work with school council organisations, citizenship foundations and others, including dialogue with teacher unions and representative bodies, to encourage more schools to involve students in staff selection and the evaluation and development of teaching quality.

### **Other work in education**

6.11 We will respond to issues relating to special educational needs; bullying; and the concerns about young people experiencing undue stress and anxiety caused by pressures from school.

6.12 In addition we will make our work and dialogue with schools and students a two-way conversation and explore means of promoting the

UNCRC through the partnerships, networks and contacts we establish through our work on education, leisure, and cultural activities.

## 7. Special protection measures<sup>15</sup>

- 7.1 The Articles grouped by the UN under the ‘special protection measures’ cover vulnerable and marginalised groups. Since the establishment of the Children’s Commissioner most of the Office’s work has been about the groups covered by these Articles. In stating that *“The Children’s Commissioner must... have particular regard to groups of children who do not have other adequate means by which they can make their views known”* the Children Act 2004 ensures this will continue to be the case.<sup>16</sup>
- 7.2 This focus is consistent with the recommendations in the Dunford Review concerning our future work and remit. Indeed the renewed focus of the Office of the Children’s Commissioner for England on the UNCRC emphasises still further our work to protect children’s and young people’s rights within the Articles known as ‘special protection measures’. As with the other clusters described above, we are not able to cover all the Articles covered by ‘special protection measures’, but have used the principles outlined in section 1 to prioritise our work.
- 7.3 This section outlines our proposed work to promote and protect the rights, enshrined in the UNCRC, of two particular groups of children and young people – those in trouble with the law (youth justice) and those subject to the immigration system (asylum and immigration). Our plans for work in both these areas set out below.

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<sup>15</sup> The UNCRC Articles collected under ‘Special protection measures’ include some Articles that are not mentioned in this section. These are - Article 30: Children of minorities/indigenous groups, Article 39: Rehabilitation of child victims, Article 34: Sexual exploitation, Article 36: Other forms of exploitation, Article 33: Drug abuse. The promotion and protection of these rights appear in work outlined in chapter 3: Family environment and alternative care.

<sup>16</sup> Children Act 2004, Part 1, Section 2 (6).

# Sexual exploitation

## Key Articles for this work are:

**Article 34:** Right to be protected from sexual abuse (sexual exploitation of children)

## Our aim

- 7.4 Through our formal Inquiry into group-associated sexual exploitation and abuse of children and young people we will inform and educate policy makers on:
- the scale and scope of this issue;
  - how the child protection system and those responsible for children's rehabilitation and care can ensure their responses meet children and young people's needs.

## What the UN said about England in 2008

- 7.5 In its last set of concluding observations in 2008 the UN Committee noted its concern *“at the lack of data on children who are victims of sexual exploitation”* and recommended that *“the State Party intensify its efforts to collect data on the extent of sexual exploitation and abuse of children, essential to prepare adequate responses to and to combat these phenomena.”* In addition it stated that *“the State Party should always consider, both in legislation and in practice, child victims of these criminal practices, including child prostitution, exclusively as victims in need of recovery and reintegration and not as offenders.”*

## What we have already achieved

- 7.6 As the lead for the London Serious Youth Violence Board on raising awareness of the impact on girls and young women, both as victims and perpetrators, of serious youth violence, we have helped to increase the profile amongst London agencies of this significant problem. We have used this role to lead a seminar on this key issue (March 2010). The discussion and outcomes from the seminar will be used to inform the development of the inquiry we will carry out during 2011/12.
- 7.7 To further inform our knowledge base we commissioned an international literature review into group-associated sexual violence against females. This work was carried out by the University of Bedfordshire and will be published in May 2011. It demonstrated how inconsistent our knowledge of this issue is, and the need for a good evidence to inform our response to this serious issue.

- 7.8 Our work on child protection services has also informed our work in this area (see chapter 4). From our work with young people and discussions with partners working in child protection services we are concerned about access to local authority services for older young people and the distinction sometimes made between those who have experienced interfamilial sexual abuse and those who suffered extra familial sexual exploitation.

### **What we will be working on over the next year**

- 7.9 We will undertake an inquiry into group and gang-associated sexual exploitation and abuse of children and young people under Part 1, Section 3 of the Children Act 2004. This will include examining the extent to which such violence and exploitation may be occurring within some school environments.
- 7.10 This Inquiry will begin in 2011. It acknowledges that the UK ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography in 2009 and, as the State Party, is due to submit an initial report to the Committee on the Rights of the Child that will provide information on the measures it has taken to implement the provisions of the protocol. The UN Committee will then publish its concluding observations and recommendations. Where appropriate it is our intention to complement this process by submitting our findings and/or taking account of the UN Committee's recommendations.
- 7.11 We will also draw on what is already known about the subject, including its scale and prevalence, impact of sexual exploitation on victims and perpetrators, and evaluation of effective policy and service responses. The Race on the Agenda (ROTA) research on the Female Voice in Violence has been a significant influence. We will work closely with key partners to draw on their collective experience and expertise to form a comprehensive picture and understanding of sexual exploitation in England.<sup>17</sup>
- 7.12 We will also commission new research where this is necessary and where little or no work currently exists. This will include the project outlined below.
- 7.13 As this, together with the Inquiry into school exclusions, will be the Office of the Children's Commissioner's first formal Inquiries using its powers under Part 1, Section 3 of the Children Act 2004, we will take

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<sup>17</sup> As part of this work our Inquiry will ensure that we work with and inform Child Exploitation and Online Protection Centre (CEOP) of our findings. The Inquiry will build upon CEOP's thematic assessment of 'localised grooming' in the UK undertaken in 2010/11. The Inquiry will also carry forward the work of research by the University of Bedfordshire, in conjunction with the National Working Group for Sexually Exploited Children and Young People, on the level of activity undertaken by Local Children Safeguarding Boards (LSCB) in the area of child sexual exploitation.

the first few months of the 2011/12 financial year to determine the most effective administrative and governance arrangements under which the inquiry will operate.

### **Group-related sexual exploitation and abuse**

- 7.14 Following work to examine the evidence base for what is known about gang-related sexual exploitation and abuse in late 2010 and early 2011 we will embark on a major research project regarding gang-associated child sexual exploitation and abuse. The project will include an extensive fieldwork component. While many of the UNCRC Articles that relate to this area lie within the special protection measure described in chapter 7 (Articles 19, 34 and 36) below we maintain that this is fundamentally an issue of child protection and it is imperative that it is recognised as such.
- 7.15 This is a two-year programme and represents a major investment of time and resources. We will develop credible and effective strategies to help and protect both girls and boys subject to sexual exploitation and abuse.

*Please see also chapter 4, Family environment and alternative care: identifying those who need protection but do not receive support.*



# Youth justice

## Key Articles for this work are:

**Article 40:** (Administration of) juvenile justice

**Article 37:** Detention and punishment (Torture, degrading treatment and deprivation of liberty)

**Article 39:** Rehabilitation of child victims

## Our aim

7.16 To promote and protect the rights of children and young people who are victims of crime and those in trouble with the law by seeking to ensure that detention is a measure of last resort; that rehabilitation is effective and fewer children and young people reoffend, and so better protect communities; and that the views and experiences of those who are detained are heard and taken into account in developing policies and practice so that:

- their emotional well-being and mental health needs are addressed in ways that seek to help them change their lives and thereby minimise the risk of re-offending;
- they are treated with dignity and respect, especially in relation to the use of full searches, restraint and segregation in secure settings.

## What the UN said about England in 2008

7.17 Youth justice was one of the areas that received most attention and comment in 2008 from the UN Committee. In its consideration of England's implementation of the UNCRC's general principles and Articles 37 and 40 it specifically noted the need for England to *"fully implement international standards of juvenile justice"*.

7.18 As well as addressing the low age of criminal responsibility in England, at 10, the Committee recommended that the Government implement *"a broad range of alternative measures to detention for children in conflict with the law; and establish the principle that detention should be used as a measure of last resort and for the shortest period time as a statutory principle,"* thus fulfilling Article 37.

7.19 It made additional recommendations concerning the separation of children from adults in custody, the right to education, and the protection of victims and/or witnesses of crime at all stages of the criminal justice system.

## **What we have already achieved**

7.20 Our work to date in this area includes:

- influencing strip-searching, separation, safeguarding and complaints policies for young people in custody through work funded by the Office of the Children's Commissioner and undertaken in partnership with User Voice and the Youth Justice Board (YJB) to record, reflect and understand young people's experience in the secure estate;
- challenging and achieving substantial change in local practice of individual institutions through our programme of visits to young people in the secure estate and subsequent engagement with leaders in the youth justice system;
- undertaking a major investigation into the emotional well-being and mental health of children and young people in custody. The report into this work, conducted in partnership with a wide range of experts, will be published in spring 2011 and will include recommendations for improved practice to Government and the YJB;
- contributing as a full member of the National Preventative Mechanism that oversees the UK's compliance with the UN's Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

## **What we will be working on over the next year**

7.21 Youth justice was one of our main areas of work and output during 2010/11, with much work focused on the mental health of young people who offend. The investigation and comprehensive programme of visits outlined in paragraph 7.12 and 5.7 above also highlighted a number of other issues we wish to pursue in 2011/12.

### ***Mental health of young people in trouble with the law***

7.22 Over the coming year we will continue to pursue the implementation and realisation of the recommendations in our report on the emotional well-being and mental health of children and young people in the criminal justice system. We will also publish at least four articles/papers on the key issues affecting the mental health of children in trouble with the law.

### ***Visits to secure settings***

7.23 We will continue our programme of visits to secure settings, including young offender institution (YOIs), secure training centres (STCs), secure children's homes (SCH) and other youth justice-related settings and projects. Our intention in doing so is to promote and protect

children's rights in secure settings. The Youth Justice Board has to date supported and, where necessary, facilitated our visits to the secure estate. Although we do have the powers of entry under Section 1 of the Children Act 2004 it is our intention to continue to work collaboratively with the YJB on a continued programme of visits. The evidence we capture during these visits will be used in our work and reported on over the course of the year (articles 37, 39 and 40).<sup>18</sup>

- 7.24 Unannounced visits may also be made in accordance with our responsibilities under the National Preventative Mechanism.

### ***Working with partners***

- 7.25 We will work with key partners on areas of joint interest to ensure that we are listening to excluded voices in the secure estate. One such area is complaints. During 2010 we undertook work on collecting young people's views and experience of complaints systems in the youth secure estate in partnership with the Youth Justice Board and User Voice. Following the completion of this work and further discussions with HMIP we have decided to investigate this issue further over the next year. While recent and welcome policy changes have been announced by the YJB our work will focus on the need for those running secure settings to value and implement Article 12, and the important role the views and voice of young people can play in developing robust, credible complaints processes.

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<sup>18</sup> We will draw on the experience and expertise of partners in the youth justice sector to develop a consistent rights-based assessment framework for our visits. Once established we will publish this framework.

# Refugee children (asylum and immigration)

## Key Articles for this work are:

**Article 22:** Refugee children

**Article 35:** Abduction, sale and trafficking

## Our aim

- 7.26 To hold UKBA to account on its implementation of section 55 of the Borders, Citizenship and Immigration Act 2009. In particular we will:
- bring children's and young people's views and experiences to the forefront;
  - seek the transfer of the National Referral Mechanism for children claiming to have been trafficked away from UKBA and to children's professionals;
  - influence policy and practice so that the UK does not remove unaccompanied children and young people from the country without full regard to their rights as enshrined in the UNCRC;
  - monitor and report on the minimal use of detention and 'pre-departure accommodation' arrangements, after the publication of the new arrangements for family removals in March 2011.

## What the UN said about England in 2008

- 7.27 The concluding Observations of the UN Committee strongly criticised the continued detention of children for immigration purposes *"including those undergoing an age assessment who may be kept in detention for weeks until the assessment is completed"* and the lack of *"an independent oversight mechanism, such a guardianship system, for an assessment of reception conditions for unaccompanied children who have to be returned"*.
- 7.28 The UN Committee also considered trafficking. It recommended that the Government provide the necessary resources to tackle the issue and ratify the Council of Europe Convention on Action against Trafficking in Human Beings and implement its obligations by ensuring that child protection standards for trafficked children meet international standards.

## **What we have already achieved**

### **7.29 Our work to date includes:**

- making a major contribution to the ending of detention of children through visits and detailed forensic reports on conditions at Yarl's Wood in relation to children's and young people's well-being and safety, utilising our powers under the Children Act 2004. This powerful evidence received significant publicity across all media and was brought to the attention of parliamentarians and the general public, playing a highly significant role in the early announcement by the Coalition Government of the ending of the detention of children for administrative purposes;
- intervening in a case at the Supreme Court to ensure final decisions concerning age assessments rest with the courts, thus promoting the use of evidence from a wide range of professionals including paediatricians and teachers;
- undertaking other legal interventions to assist in clarifying the scope of the duty under Section 55 of the Borders, Citizenship and Immigration Act 2009 to safeguard children and promote their welfare;
- highlighting significant child protection concerns relating to the use of detention for immigration purposes, resulting in improved protection for children;
- continuing with a long established programme of work to consider reception conditions of unaccompanied children by visiting a reception and assessment centre in Kent and obtaining the views and experiences of the young people accommodated there;
- changing policy and practice regarding the prosecution of children (largely Vietnamese boys) who are found to be working in cannabis factories. These are trafficked children and we have convened and facilitated roundtable discussions of key parties including the Director of Public Prosecutions, CEOP, the police, ECPAT, and others in order to ensure that these children are recognised and treated as victims.

**7.30** Our impact in this area has been based on producing evidence that combines the use of testimonies from children and young people and the use of expert advice to assess and examine the impact of policies and practice on their rights. The reports we produce, based on our visits to different immigration system settings, bring the lived experiences of children and young people to the attention of those making decisions over their lives. In doing so we have used a range of different ways to enable young people to express their views and tell their stories, with art-based work being a particularly powerful tool in giving these young people a voice.

## **What we will be working on over the next year**

- 7.31 With a record of achievement and influence in this area of work we will continue to promote and protect the rights of children and young people caught up in the immigration system. Our key objective has been to end the detention of children and young people for immigration purposes. It was a major achievement to realise this objective over the last year. However there is still much work to be done to follow up concerns brought to our attention by those directly involved in the immigration system and organisations who work with or advocate for them directly.
- 7.32 We will continue to place children and young people at the heart of our work, seeking to ensure their engagement and involvement in all areas of our work on asylum and immigration.
- 7.33 Our work over the coming year will reflect a number of areas where we are concerned that the rights of children and young people subject to immigration control are protected.

### ***Monitoring the end of detention***

- 7.34 In each of our last two business plans our focus on this issue, and related visits to Yarl's Wood Immigration Removal Centre, has required significant resources. This year we will no longer need to visit Yarl's Wood. We will visit Tinsley House, which is being used as a short-term solution (until May) for brief periods of detention before families are removed. After May we will continue to monitor the implementation of the policy to end detention and work with and monitor the new arrangements UKBA put in place. We will closely examine the welfare of children held immediately prior to deportation. Following the recent announcement of Barnardo's acceptance of the contract to work alongside pre-deportation families in settings that put care and the rights of the child at the centre of their provision, we will arrange means of monitoring the work done on this new alternative to previous practice.

### ***Investigating issues around returning young people to their country of origin***

- 7.35 This is a new area of work for us. Initially we will explore the issues involved, and our potential role, by hosting a conference or roundtable focusing on returns for the key organisations involved with unaccompanied children and young people seeking asylum. Future objectives will be refined as a result of discussions at the roundtable.

***Continuing to monitor the implementation of Section 55 of Borders, Citizenship and Immigration Act 2009***

- 7.36 In doing so we intend to draw together best practice from local authorities in relation to the protection and safeguarding of children and young people within the immigration system.

***Seeking to improve the assessment of children's and young people's ages***

- 7.37 The accuracy and practice of assessing the age of unaccompanied asylum seekers has frequently been brought to the attention of the Office of the Children's Commissioner.<sup>19</sup> The reports brought to our attention often emphasise the confusion and frustration felt by the young people involved. We understand that the process raises complex issues. Building on our work to date, including our legal interventions on this issue, we will continue to monitor policy and practice with the aim of improving the quality and consistency of decision-making.<sup>20</sup>

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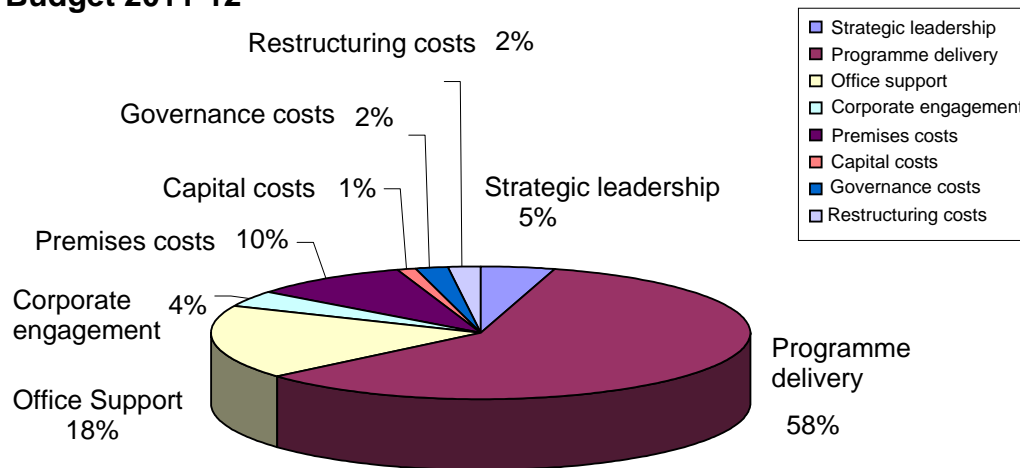
<sup>19</sup> For example see Office of the Children's Commissioner Reports, *Landing in Kent: The experience of unaccompanied children arriving in the UK* (2011), or *The Children's Commissioner for England's follow up report to: the arrest and detention of children subject to immigration control* (2010).

<sup>20</sup> A number of agencies and organisations have expressed an interest in this area of our work. As well as continuing our dialogue with a range of immigration sector stakeholders we will also involve the Youth Justice Board and CEOP in our work on age assessment. Both have made a case regarding their expertise and remit that the OCC believes is a valuable contribution to our work in this area.

## 8. How we will spend our money

- 8.1 Our aim is to spend the public resources we receive as efficiently and effectively as possible in order to impact upon and improve the lives of children and young people. We will do this by ensuring that the maximum amount of resources is spent on programme delivery. We define this expenditure as the resource used directly to deliver the plans set out in this document.
- 8.2 This commitment is reflected in the chart below.

**Budget 2011-12**



- 8.3 While we will continue to endeavour to drive down the proportion of our resources spent on non-programme delivery our budget must of necessity cover the following:
- **Governance:** the costs of our internal and external audits. It also includes the cost of our Audit and Risk Committee;
  - **Strategic leadership:** the proportion of our senior leadership team's time spent on corporate and strategic leadership issues, including the performance management of staff;
  - **Office support:** the essential functions to ensure our office works effectively;
  - **Corporate engagement:** the time and resources we have committed to working more closely with partners and realising our statutory responsibility to promote children's rights;
  - **Premises: covering rent, rates and service charges:** With effect from February 2010/11 we significantly reduced our premises costs by moving to smaller premises;
  - **Restructuring costs:** We have set aside some of our budget to begin the transition to the new Office of the Children's



Commissioner for England (OCCE). We will be working with the Department for Education to realise those recommendations of the independent review that are within our power and remit to implement.

- 8.4 During 2011/12 we will continue to look for ways to drive down the proportion of our budget spent on non-programme delivery. We will do so in line with the Government's requirements, as good stewards of public money and in order to maximise the resources that are available to impact children and young people's lives.

# Appendix 1

The UN Committee on the Rights of the Child publish *Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States Parties under article 44, paragraph 1 (b), of the Convention on the Rights of the Child* (adopted by the Committee at its fifty-fifth session (13 September-1 October 2010)).

These guidelines state that:

*“The treaty-specific report should provide information according to the **clusters of rights identified by the Committee**, as identified below (emphasis added). The State Party should indicate progress and challenges in achieving full respect for the provisions of the Convention and Optional Protocols, as applicable. In particular, the State Party is requested to provide specific information on actions taken to implement the recommendations from previous concluding observations as they relate to each cluster.”*

The Office of the Children’s Commissioner has used these UN defined ‘clusters’ to order its own work and relate its activity directly to the UNCRC. The Articles defined within these clusters are outlined below.

UNCRC defined groups	Articles
<b>General measures of implementation</b> (arts. 4, 42 and 44, para. 6, of the Convention)	4 Protection of rights 42 Knowledge of rights
<b>General principles</b> (arts. 2, 3, 6 and 12 of the Convention)	2 Without discrimination 3 Best interests of the child 6 Survival and development 12 Respect for the views of the child
<b>Civil rights and freedoms</b> (arts. 7, 8, 13-17 and 37 (a) of the Convention)	7 Registration, name, nationality, care 8 Preservation of identity 13 Freedom of expression 14 Freedom of thought, belief and religion 15 Freedom of association 16 Right to privacy 17 Access to information from mass media 37 Detention

<p><b>Family environment and alternative care</b> (arts. 5; 18, paras. 1-2; 9-11; 19-21; 25; 27, para. 4; and 39 of the Convention)</p>	<p>5 Parental guidance 18 Parental responsibilities; state assistance 9 Separation from parents 10 Family reunification 11 Kidnapping and trafficking 19 Protection from all forms of violence 20 Children deprived of a family 21 Adoption 25 Review of treatment in care 27 Adequate standard of living</p>
<p><b>Basic health and welfare</b> (arts. 6; 18, para. 3; 23; 24; 26; and 27, paras. 1-3, of the Convention)</p>	<p>6 Survival and development 18 Parental responsibilities; state assistance 23 Children with disability 24 Health and health services 26 Social security 27 Adequate standard of living</p>
<p><b>Education, leisure and cultural activities</b> (arts. 28, 29 and 31 of the Convention)</p>	<p>28 Right to education 29 Goals of education 31 Leisure, play and culture</p>
<p><b>Special protection measures</b> (arts. 22, 30, 38, 39, 40, 37 (b)-(d), and 32-36 of the Convention)</p>	<p>22 Refugee children 30 Children of minorities 38 War and armed conflicts 39 Rehabilitation of child victims 40 Juvenile justice  37 Detention 32 Child labour 33 Drug abuse 34 Sexual exploitation 35 Abduction 36 Other forms of exploitation</p>

## Further description of the UN Articles noted in the Office of the Children's Commissioner Business Plan <sup>21</sup>

### 1. General measures of implementation (Articles 4, 42 and 44, para. 6 of the Convention)

**Article 4 (Protection of rights):** Governments have a responsibility to take all available measures to make sure children's rights are respected, protected and fulfilled. When countries ratify the Convention, they agree to review their laws relating to children. This involves assessing their social services, legal, health and educational systems, as well as levels of funding for these services. Governments are then obliged to take all necessary steps to ensure that the minimum standards set by the Convention in these areas are being met. They must help families protect children's rights and create an environment where they can grow and reach their potential. In some instances, this may involve changing existing laws or creating new ones. Such legislative changes are not imposed, but come about through the same process by which any law is created or reformed within a country. Article 41 of the Convention points out the when a country already has higher legal standards than those seen in the Convention, the higher standards always prevail.

**Article 42 (Knowledge of rights):** Governments should make the Convention known to adults and children. Adults should help children learn about their rights, too. (See also article 4.)

### 2. General principles (articles 2, 3, 6 and 12 of the Convention)

**Article 2 (non-discrimination):** The Convention applies to all children, whatever their race, religion or abilities; whatever they think or say, whatever type of family they come from. It doesn't matter where children live, what language they speak, what their parents do, whether they are boys or girls, what their culture is, whether they have a disability or whether they are rich or poor. No child should be treated unfairly on any basis.

**Article 3 (best interests of the child):** The best interests of children must be the primary concern in making decisions that may affect them. All adults should do what is best for children. When adults make decisions, they should think about how their decisions will affect children. This particularly applies to budget, policy and law makers.

**Article 6 (survival and development):** Children have the right to live. Governments should ensure that children survive and develop healthily.

**Article 12 (respect for the views of the child):** When adults are making decisions that affect children, children have the right to say what they think should happen and have their opinions taken into account.

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<sup>21</sup> Article descriptions taken from *A summary of the rights under the Convention on the Rights of the Child*, produced by UNICEF UK

**5. Family environment and alternative care (article 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)**

**Article 5 (parental guidance):** Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly. Helping children to understand their rights does not mean pushing them to make choices with consequences that they are too young to handle. Article 5 encourages parents to deal with rights issues "in a manner consistent with the evolving capacities of the child". The Convention does not take responsibility for children away from their parents and give more authority to Governments. It does place on governments the responsibility to protect and assist families in fulfilling their essential role as nurturers of children.

**Article 18 (parental responsibilities; state assistance):** Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments must respect the responsibility of parents for providing appropriate guidance to their children – the Convention does not take responsibility for children away from their parents and give more authority to governments. It places a responsibility on governments to provide support services to parents, especially if both parents work outside the home.

**Article 9 (separation from parents):** Children have the right to live with their parent(s), unless it is bad for them. Children whose parents do not live together have the right to stay in contact with both parents, unless this might hurt the child.

**Article 19 (Protection from all forms of violence):** Children have the right to be protected from being hurt and mistreated, physically or mentally. Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them.

**Article 20 (children deprived of family environment):** Children who cannot be looked after by their own family have a right to special care and must be looked after properly, by people who respect their ethnic group, religion, culture and language.

**Article 21 (adoption):** Children have the right to care and protection if they are adopted or in foster care. The first concern must be what is best for them. The same rules should apply whether they are adopted in the country where they were born, or if they are taken to live in another country.

**Article 25 (review of treatment in care):** Children who are looked after by their local authorities, rather than their parents, have the right to have these living arrangements looked at regularly to see if they are the most appropriate. Their care and treatment should always be based on "the best interests of the child". (see Guiding Principles, Article 3)

**Article 27 (adequate standard of living):** Children have the right to a standard of living that is good enough to meet their physical and mental needs. Governments should help families and guardians who cannot afford to provide this, particularly with regard to food, clothing and housing.

**Article 39 (rehabilitation of child victims):** Children who have been neglected, abused or exploited should receive special help to physically and psychologically recover and reintegrate into society. Particular attention should be paid to restoring the health, self-respect and dignity of the child.

## **6. Basic health and welfare (articles 6, 18 (para. 3), 23, 24, 26, 27 (paras 1-3) of the Convention)**

**Article 6 (survival and development):** Children have the right to live. Governments should ensure that children survive and develop healthily.

**Article 18 (Parental responsibilities; state assistance):** Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments must respect the responsibility of parents for providing appropriate guidance to their children – the Convention does not take responsibility for children away from their parents and give more authority to governments.

**Article 23 (children with disabilities):** Children who have any kind of disability have the right to special care and support, as well as all the rights in the Convention, so that they can live full and independent lives.

**Article 24 (health and health services):** Children have the right to good quality health care – the best health care possible – to safe drinking water, nutritious food, a clean and safe environment, and information to help them stay healthy. Rich countries should help poorer countries achieve this.

**Article 26 (social security):** Children – either through their guardians or directly – have the right to help from the Government if they are poor or in need.

**Article 27 (adequate standard of living):** Children have the right to a standard of living that is good enough to meet their physical and mental needs. Governments should help families and guardians who cannot afford to provide this, particularly with regard to food, clothing and housing.

## **7. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)**

**Article 28 (right to education):** All children have the right to a primary education, which should be free. Wealthy countries should help poorer countries achieve this right. Discipline in schools should respect children's dignity. For children to benefit from education, schools must be run in an orderly way – without the use of violence. Any form of school discipline should take into account the child's human dignity.

Therefore, Governments must ensure that school administrators review their discipline policies and eliminate any discipline practices involving physical or mental violence, abuse or neglect. The Convention places a high value on education. Young people should be encouraged to reach the highest level of education of which they are capable.

**Article 29 (goals of education):** Children's education should develop each child's personality, talents and abilities to the fullest. It should encourage children to respect others, human rights and their own and other cultures. It should also help them learn to live peacefully, protect the environment and respect other people. Children have a particular responsibility to respect the rights their parents, and education should aim to develop respect for the values and culture of their parents. The Convention does not address such issues as school uniforms, dress codes, the singing of the national anthem or prayer in schools. It is up to governments and school officials in each country to determine whether, in the context of their society and existing laws, such matters infringe upon other rights protected by the Convention.

**Article 31 (leisure, play and culture):** Children have the right to relax and play, and to join in a wide range of cultural, artistic and other recreational activities.

#### **8. Special protection measures (arts. 22, 30, 38, 39, 40, 37 (b)-(d), and 32-36 of the Convention)**

**Article 22 (refugee children):** Children have the right to special protection and help if they are refugees (if they have been forced to leave their home and live in another country), as well as all the rights in this Convention.

**Article 30 (children of minorities/indigenous groups):** Minority or indigenous children have the right to learn about and practice their own culture, language and religion. The right to practice one's own culture, language and religion applies to everyone; the Convention here highlights this right in instances where the practices are not shared by the majority of people in the country.

**Article 39 (rehabilitation of child victims):** Children who have been neglected, abused or exploited should receive special help to physically and psychologically recover and reintegrate into society. Particular attention should be paid to restoring the health, self-respect and dignity of the child.

**Article 40 (juvenile justice):** Children who are accused of breaking the law have the right to legal help and fair treatment in a justice system that respects their rights. Governments are required to set a minimum age below which children cannot be held criminally responsible and to provide minimum guarantees for the fairness and quick resolution of judicial or alternative proceedings.

**Article 37 (detention and punishment):** No one is allowed to punish children in a cruel or harmful way. Children who break the law should not be treated cruelly. They should not be put in prison with adults, should be

able to keep in contact with their families, and should not be sentenced to death or life imprisonment without possibility of release.

**Article 33 (drug abuse):** Governments should use all means possible to protect children from the use of harmful drugs and from being used in the drug trade.

**Article 34 (sexual exploitation):** Governments should protect children from all forms of sexual exploitation and abuse. This provision in the Convention is augmented by the Optional Protocol on the sale of children, child prostitution and child pornography.

**Article 35 (abduction, sale and trafficking):** The Government should take all measures possible to make sure that children are not abducted, sold or trafficked. This provision in the Convention is augmented by the Optional Protocol on the sale of children, child prostitution and child pornography.

**Article 36 (other forms of exploitation):** Children should be protected from any activity that takes advantage of them or could harm their welfare and development.



## Appendix 2

### Engaging Stakeholders in developing the Business Plan

We are committed to the principles of transparency and have therefore consulted widely on this business plan. Critically, it was discussed and shaped by input from our children and young people's advisory group, *Amplify*.

Draft copies of the business plan were sent to over 130 key partners across the voluntary and statutory sectors. They included Members of Parliament and peers, current and former Government advisers, academics, experts and professionals working in Local Government, small charities and large national voluntary sector organisations. We invited views over the course of February and March before completing our business plan in time to share with the Secretary of State before the beginning of the new business year (in line with our legal duty).

We thank those who responded and all their comments and suggestions have helped amend the text and strengthen our plans.

As part of our consultation we asked our partners to consider a number of questions and themes:

- How we might ensure maximum impact for our work in order to realise our aims.
- Information about similar projects or work being undertaken by others.
- Views on how we can strengthen our partnership work with (our partners), whilst also maintaining the independence necessary for an Office based on the principles of a national human rights institution.
- This plan sets out a number of areas where our work may take the form of a formal Inquiry by the Children's Commissioner. Would your organisation support such a formal Inquiry by the Commissioner? If so, what issue within this plan should the Commissioner prioritise?
- We consider that the aims and programme of work outlined below represent a significant body of work. As the transition to a new Office of the Children's Commissioner for England is likely to take 2-3 years we are minded to adopt this business plan as the basis of our work until the legislation to create the new Office gains Royal Assent. Whilst new projects may be added our aims would remain constant during this period. Do you have any views on this approach?

- Measuring the impact of our work is very important to us. In previous years we have developed Key Performance Indicators largely based on our outputs. We are keen to hear how our partners measure their impact in order to learn and adopt more sensitive and appropriate impact measures. What objective measure of success would you use to judge the Office of the Children's Commissioner? What objectives measure of success would you use to judge the Office of the Children's Commissioner?

The consultation process included the following organisations:

Action for Children; Association of Children's Lawyers; Association of Directors of Children's Services (ADCS); Association of Chief Police Officers (ACPO); British Youth Council; Child Exploitation and Online Protection centre (CEOP); Children's Society, Children's Rights Alliance England (CRAE), Children's Rights Director; Children's Legal Centre; Children England; Catch 22; The Diana Award; Greater London Authority; HM Inspectorate of Prisons; Howard League; Kids in Museums; Kids Company; Liberty; Local Government Association; Mencap; NSPCC; National Council for Voluntary Youth Services (NCVYS); nacro; National Youth Association (NYA); OFSTED; Prince's Trust/Fairbridge; Royal College of Paediatricians and Children's Health (RCPCH); Refugee Council; Runnymede Trust; Save the Children; Turning Point; User Voice; UKYP; VOICE; Youth Justice Board; Young Minds.

Our plan was also sent to:

- Members of Parliament and the House of Lords, including chairs of the Education Select committee and Joint committee on Human Rights;
- Officials in departments key to our work in 2011/12: Department of Education, Department of Health, Home Office (including the UK Borders Agency) and Ministry of Justice;
- Academics in a number of leading universities and research institutions;
- Members of the media (including BBC and Children & Young People Now);
- Members of the Office of the Children's Commissioner's expert advisory groups on education, asylum and mental health and youth justice (these include front line practitioners);
- Children's Commissioners and ombudsmen in Scotland, Wales, Northern Ireland and the Republic of Ireland. This group constitutes the British and Irish Network of Ombudspersons and Children's Commissioners (BINOC) with whom we meet and work with regularly. We also sent our Plan to the European Network of Ombudspersons for Children (ENOC).

## Appendix 3

### Office of the Children's Commissioner Performance Framework

#### Background:

This year we specifically asked our partners, as part of our extensive consultation on our business plan, how they felt we should be judged in terms of our impact.

Here we would like to thank UNICEF for highlighting the value of the UN's '[Assessing the Effectiveness of National Human Rights Institutions](#)' report. In addition, in line with the requirement for us to prove that we are continuing to provide value for money with public money we have created a hybrid performance framework drawn on both the UN's advice and the [Department for Education's business plan model](#).

The UN and partners acknowledge that measuring the impact of National Human Rights Institutions is a challenge. However, we have used its definitions and framework as our guiding principles. In short, our impact will be judged on whether or not Government or relevant bodies accept, reject, adapt or ignore our advice or recommendations. We have placed an additional requirement on our self in terms of demonstrating organisational value for money.

Every quarter we will publically report back against our summary report; and in October and May of each year we will publish our half-year and full-year performance from the highlight reports.

Strategic Aims	Theme	Primary Linked Clusters/ programmes	Projects	OUTPUTS/ MILESTONES 11/12	Performance	IMPACT (outcome) INDICATORS	Total/ comments
A. To promote and protect the rights of children and young people as enshrined in the UNCRC. (1.8 i)	<b>1. INQUIRIES</b> – to realise children’s rights by using the unique powers under the Children Act (1.10)	1.1 Education & Leisure  1.2 Special Protection: Child sexual exploitation	1.1.1 Inequalities in school exclusions (6.5 - 6.8)  1.2.1 Group and gang related sexual exploitation an abuse of children and young people (7.9 - 7.15)	<ul style="list-style-type: none"> <li>Determine scale, scope, boundaries and key questions for Inquiry</li> <li>Launch Inquiry</li> <li>Call or commission evidence to inform the Inquiry.</li> <li>Publish interim/ final report in, line with the Inquiry’s objectives</li> </ul>	Realise and deliver key milestones on time and on budget.	Number of recommendations that have been: <ul style="list-style-type: none"> <li>- accepted</li> <li>- rejected</li> <li>- adapted</li> <li>- ignored</li> </ul> (Further Inquiry specific impacts outcomes will be noted in comments column over the course of the project).	

Strategic Aims	Theme	Primary Linked Clusters/ programmes	Projects	OUTPUTS/ MILESTONES 11/12	Performance	IMPACT (outcome) INDICATORS	Total/ comments
	<b>2. ADVICE AND INFLUENCE –</b> to realise children's rights in the UK by provide advice to relevant bodies and influencing their decision making and/or provision of services to children and young people  (1.10)	2.1 General Measures of Implementation	2.1.1 UK Commissioners UNCRC mid-term report (2.5-2.6)  2.1.2 Developing an Effective Complaints System (2.12 + 3.15)	<ul style="list-style-type: none"> <li>Project initiation document approved by Leadership Team</li> <li>Gather evidence (this may include reviewing and testing proposed legislation, policy and practice)</li> </ul>	Realise and deliver key milestones on time and on budget (All projects will have detailed individual project milestones, impact indicators and budget).	Number of recommendations that have been: <ul style="list-style-type: none"> <li>- accepted</li> <li>- rejected</li> <li>- adapted</li> <li>- ignored</li> </ul> (Further project specific impacts outcomes will be noted in comments column over the course of the project).	
		2.2 General Principles and civil rights and freedoms	2.2.1 Child Rights Impact Assessments (3.10 – 3.13)	<ul style="list-style-type: none"> <li>Implement engagement and participation with children and young people</li> </ul>	Realise and deliver key milestones on time and on budget (All projects will have detailed individual project milestones, impact	Number of recommendations that have been: <ul style="list-style-type: none"> <li>- accepted</li> <li>- rejected</li> <li>- adapted</li> <li>- ignored</li> </ul> (Further project specific impacts outcomes will be noted in	
		2.3 Family Environment and alternative care	2.3.1 Children's Access to Protection; recognition and telling (4.6 – 4.7)  2.3.2 Impact of Parental Substance Misuse (4.8 a)	<ul style="list-style-type: none"> <li>Produce evidenced case and recommendations for</li> </ul>			

Strategic Aims	Theme	Primary Linked Clusters/ programmes	Projects	OUTPUTS/ MILESTONES 11/12	Performance	IMPACT (outcome) INDICATORS	Total/ comments
			<p>2.3.3 Child Protection Systems in Schools Settings (4.8 c)</p> <p>2.3.4 Examine How Older Children &amp; Young People Access to child protection services (4.8 b)</p>	relevant parties, in conjunction with the outreach and engagement plan	indicators and budget).	comments column over the course of the project).	
		2.4 Basic Health and welfare	<p>2.4.1 Children and young people's experience of GPs (5.6)</p> <p>2.4.2 Implementing Child Poverty Strategy (5.7)</p>	a-d above are repeated for all advice and influence projects	Realise and deliver key milestones on time and on budget (All projects will have detailed	<p>Number of recommendations that have been:</p> <ul style="list-style-type: none"> <li>- accepted</li> <li>- rejected</li> <li>- adapted</li> <li>- ignored</li> </ul> <p>(Further project specific impacts</p>	
		2.5 Education & Leisure	2.5.1 School Exclusions. (6.8 a)	a-d above are repeated for all advice and influence projects			

Strategic Aims	Theme	Primary Linked Clusters/ programmes	Projects	OUTPUTS/ MILESTONES 11/12	Performance	IMPACT (outcome) INDICATORS	Total/ comments
			2.5.2 Having a Positive Influence on Teaching Quality (6.10)		individual project milestones, impact indicators and budget).	outcomes will be noted in comments column over the course of the project).	
		2.6 Special Protection: a. Child Sexual Exploitation  b. Youth Justice  c. Refugee children	2.6.1 Gang related sexual exploitation of children and young people. [This research will be embedded within the relevant Inquiry] (7.14 – 7.15)  2.6.2 Developing an effective complaints system in the secure estate (7.25)  2.6.3 Applying the best	a-d above are repeated for all advice and influence projects			

Strategic Aims	Theme	Primary Linked Clusters/ programmes	Projects	OUTPUTS/ MILESTONES 11/12	Performance	IMPACT (outcome) INDICATORS	Total/ comments
			<p>interest test to immigration returns of asylum seeking children (7.35)</p> <p>2.6.4 Monitoring the end of detention of children and families (7.34)</p> <p>2.6.5 Seeking to improve the assessment of children and young people's ages (7.37)</p>				
	<b>3. PUBLIC OUTREACH &amp; ENGAGEMENT</b> - To promote children rights to children and young people – particularly those who are school aged	<p>3.1 General Measures</p> <p>3.2 General Principles</p>	<p>3.1.1 Working on Promoting the UNCRC (2.13-2.15)</p> <p>3.2.1 Amplify: OCC's children and young people's Advisory Group</p>	<p>Identify strategic partners for each projects</p> <p>Identify targeted children, young people, staff and professionals</p> <p>LT to approve outreach and</p>	Realise and deliver key milestones on time and on budget.	<p>Total number of children and young people engaged with via the projects under categories of inform, consult and involve.</p> <p>Number of</p>	



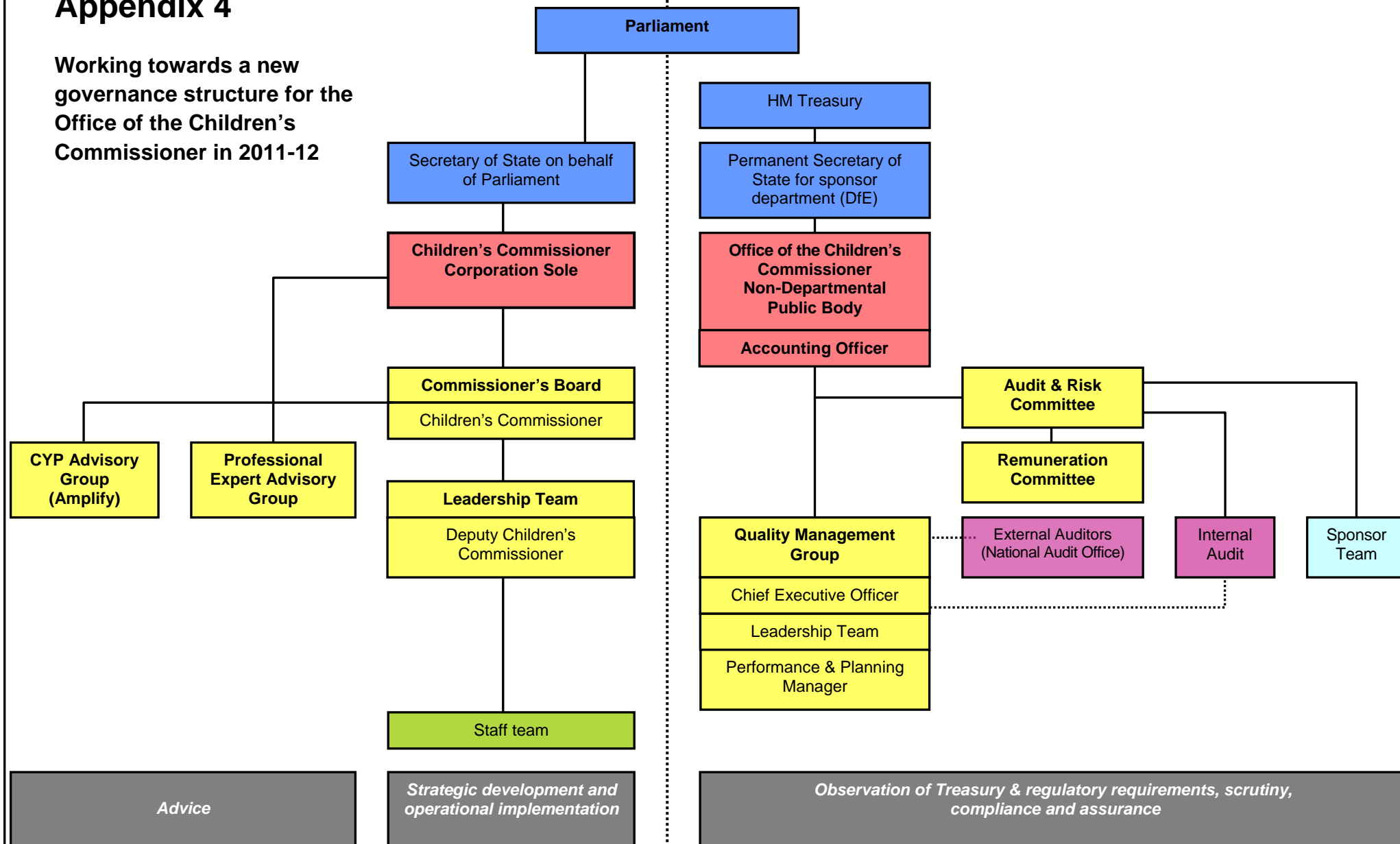
Strategic Aims	Theme	Primary Linked Clusters/ programmes	Projects	OUTPUTS/ MILESTONES 11/12	Performance	IMPACT (outcome) INDICATORS	Total/ comments
	and vulnerable, policy makers and influencers, through our projects and programmes, by providing education and information on children's rights UNCRC  (1.10)	3.3 Special Protection	(3.0)  3.2.2 Children's Commissioner's Takeover day (3.8)  3.2.3 Tackling negative portrayal of young people (3.9)  3.3.1 Promoting and protecting children's rights in secure settings (7.23-7.24)  3.3.2 Listening to Excluded Voices (youth justice) (7.25)	engagement plan including channels and engagement points  Run Children's Commissioner's Takeover Day  Evaluated outreach and engagement plan		targeted children, young people staff and professionals whose knowledge or understanding of children's rights has been enhanced through our work.  Total number of strategic partners of OCC who are either actively engaged in our work or show an interest in/support our work.  An increase in engagement via communications channels – including social media in comparison with 10/11	

Strategic Aims	Theme	Primary Linked Clusters/ programmes	Projects	OUTPUTS/ MILESTONES 11/12	Performance	IMPACT (outcome) INDICATORS	Total/ comments
B. To be efficient, demonstrate good value for money and deliver effective outcomes for children and young people, and be accountable, transparent and have robust governance arrangements in	4. <b>ORGANISATION</b> – to provide value for money in public money spending £2.6m  (1.10)		4.1 Finance, Audit, Human Resources 4.2 Governance 4.3 Transparency 4.4 Transition	Non-qualified accounts Publications scheme on website  Reinstatement of robust internal controls and regular review of effectiveness  Monthly management accounts and audit file  Monthly management and review of organisational risks  Production and Publication of quarterly	Realise and deliver key milestones on time and on budget.	1 – OCC accounts laid to parliament unqualified (governance and accountability)  2 – OCC publishes its full publication scheme in accordance with the information commissioner's requirements. (trans)  3- All unchallenged invoices paid within 5/10 days. (org)  4 - All procurement processes	

Strategic Aims	Theme	Primary Linked Clusters/ programmes	Projects	OUTPUTS/ MILESTONES 11/12	Performance	IMPACT (outcome) INDICATORS	Total/ comments
place (1.8 ii-iii)				performance reports.		comply fully with procurement procedures (governance and accountability).	

# Appendix 4

Working towards a new governance structure for the Office of the Children's Commissioner in 2011-12



# Appendix 5

## Office of the Children's Commissioner's budget for 2011-12

### Commentary

#### **Incoming resources: £2.674M**

The confirmed remit for 2011-12 is £2,674M. Grant in aid is provided by the sponsoring body DfE.

#### **Staff costs: £1,493M**

The staff budget for 2011-12 has been prepared on the basis of a pay freeze for 2011-12; creation of three new fixed-term posts in Policy (Principal Policy Advisers x4); and the reconfiguration of the corporate services teams. It is anticipated there will be further savings in 2011-12 in Communications with the deletion of two posts with an estimated savings of £54K.

#### **Governance costs: £63K**

The governance budget for 2011-12 includes the cost of External Audit (25K); Internal Audit (20K); Audit & Risk committee fees (£7K); and costs of preparing our annual report (£8K). These budgeted costs are under review by the leadership team.

#### **Project costs: £612K**

Budgeted project costs have been recorded based on anticipated budgeted spend documented and agreed in the annual business plan.

#### **Communication costs: £99K**

Budgeted communication costs are estimated based on prior year spend in 10/11 and in consultation with leadership team. It has been agreed further savings will be identified.

**Premises costs: £257K**

Budgeted premises costs have been recorded based upon actual contract information for the new occupancy agreement for 33 Greycoat Street. Elsewhere the budget costs are estimated based on prior year spend. This remains under review by the leadership team in order to identify further savings.

**Support costs: £125K**

Budgeted support costs have been estimated based on spend in 10/11. This remains under review by the leadership team in order to identify further efficiencies.

**Capital expenditure: £25K**

Budget capital expenditure relates to the depreciation of software held. The software will be fully depreciated in 2011/12.

**Basis of preparation**

The budget has been prepared on the basis of consultation with the leadership team; commitments outlined in the OCC's 2011-12 Business Plan; payroll files; and trial balance.

The initial budget was prepared on the basis of allocation of budget over the year. The budget will be re-profiled in order that the budget is profiled to match period to which expenditure will be incurred.

Draft budget 2011-12	Notes													Total
		April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	
Budgeted income	1													
<i>Total budgeted incoming resources</i>		222,886	223,011	222,886	222,886	223,011	222,886	222,886	222,886	223,011	222,886	222,886	223,011	2,675,132
Budgeted staff costs	2													
<i>Total budgeted staff costs</i>		112,610	112,610	112,610	110,314	149,377	149,377	124,377	124,377	124,377	124,377	124,377	124,377	1,493,156
Budgeted governance costs	3													
<i>Total budgeted governance costs</i>		12,016	766	9,266	12,016	766	766	12,016	766	766	12,016	766	766	62,697
Budgeted project costs	4													
<i>Total budgeted project costs</i>		51,000	51,000	51,000	51,000	51,000	51,000	51,000	51,000	51,000	51,000	51,000	51,000	611,999
Budgeted corporate engagement costs	5													
<i>Total budgeted corporate engagement costs</i>		8,322	8,322	8,322	8,322	8,322	8,322	8,322	8,322	8,322	8,322	8,322	8,322	99,869
Budgeted premises costs	6													
<i>Total budgeted premises costs</i>		50,302	2,925	17,300	41,602	2,925	17,300	42,202	2,925	17,300	41,602	2,925	17,300	256,608
Budgeted support costs	7													
<i>Total budgeted support costs</i>		10,525	10,025	11,125	10,025	10,025	11,025	10,125	10,025	11,025	10,025	10,025	11,025	124,999
Budgeted capital expenditure	8													
<i>Total budgeted capital expenditure</i>		3,116	3,116	3,116	3,116	3,116	3,116	3,116	3,116	0	0	0	0	24,926
<i>Total budgeted expenditure</i>		247,891	188,764	212,739	236,396	225,531	240,906	251,158	200,531	212,790	247,342	197,415	212,790	2,674,254
Operating surplus/(deficit)		(25,005)	34,247	10,147	(13,510)	(2,520)	(18,020)	(28,272)	22,355	10,221	(24,456)	25,471	10,221	878



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